IN THE SUPREME COURT OF THE STATE OF NEVADA

VICTORIA GIAMPA,

Petitioner,

District Court Case
No: **98-D224029**

vs.

Nevada Supreme Court
No.:

THE EIGHTH JUDICIAL DISTRICT
COURT of the State of Nevada, in and
for the County of Clark, and
DISTRICT COURT JUDGE
SANDRA L. POMRENZE,

Respondent.

Oral Argument
Requested: YES

and

CHARLES F. GIAMPA,

Real Party In Interest.

COMES NOW, PETITIONER VICTORIA GIAMPA, (hereinafter VICTORIA), who hereby seeks from the Nevada Supreme Court, PERMISSION TO FILE AN EXTENSION OF TIME for the purpose of filing PERMISSION FOR LEAVE TO AMEND PETITION FOR WRIT OF

MANDAMUS OR IN THE ALTERNATIVE A PETITION FOR WRIT OF PROHIBITION; OR PERMISSION FOR REHEARING OF PETITION FOR WRIT OF MANDAMUS OR IN THE ALTERNATIVE A PETITION FOR WRIT OF PROHIBITION in compliance with the Nevada Rules of Appellate Procedure, NRAP 26, Computation and Extension of Time.

WHEREFORE, VICTORIA GIAMPA makes this Petition based upon equitable grounds and is based upon good cause in order to have the Nevada Supreme Court consider her argument(s).

Victoria Giampa
1848 Wellington Court
Henderson, NV 89014
(702) 434-9027
In Proper Person

NOTICE OF HEARING

TO: DISTRICT COURT JUDGE SANDRA L. POMRENZE

TO: CHARLES F. GIAMPA – PLAINTIFF, REAL PARTY IN INTEREST

TO: BRYCE C. DUCKWORTH, ESQ. – ATTORNEY FOR PLAINTIFF, REAL PARTY IN INTEREST

PLEASE TAKE NOTICE that the undersigned will bring the PERMISSION TO FILE AN EXTENSION OF

TIME on hearing before the Nevada Supreme Court, Carson City, Nevada on the ____day of _____, 2008, in Department No. __, at ___ _.m., or as soon thereafter as counsel can be heard.

DATED this 22nd day of OCTOBER, 2008.

By: Victoria Giampa

/ / /

SUMMARY BACKGROUND

On August 24, 2007, JUDGE SANDRA L. POMRENZE issued an Order as follows:

> *Defendant's Motion for Stay is Denied;*
> *Court finds Defendant is a Vexatious Litigator, given the number of motions* ***filed over the years*** *and the number which have been found to be non-meritorious, therefore, Defendant must get the permission of the Court to file any future motions;*
>
> *Plaintiff is awarded Attorney's Fees in the amount of $1,500.00;*
>
> *Defendant's request for sanctions against Plaintiff is denied as being non-meritorious.*
>
> *Plaintiff was not barred from filing a Countermotion and the Countermotion was meritorious in part.*

Judge Sanchez, on *February 11, 2004*, made the following opposite statements about VICTORIA'S ability to file motions which prove Judge Pomrenze of bias and prejudice when she deems VICTORIA a vexatious litigant as follows:

> *JUDGE SANCHEZ: ...and defendant may be very well meaning, and she certainly is a brilliant litigant from -- in comparison to the normal litigants who don't have counsel because she – she cites the case law. She's -- she's you know, she's someone you'd want to hire if you had that kind of case where there were so many complex issues to litigate because she's extremely thorough.*

> *JUDGE SANCHEZ: There's numerous citations to transcripts, a lot of research. I mean, I can't conceive -- it must take months to research that kind of a brief, to file a ninety-nine page brief with twenty-two issues for relief. And she cites transcripts and case law and -- I mean, it's beyond the pale. We don't even have lawyers who've been practicing for thirty years filing those kinds of pleadings. So it's -- The benefit is that we know we have an informed litigant here who is not the normal uninformed pro per litigant who is at a loss as to what the law provides and what's required in terms of burden of proof.*

Chief District Court Judge Kathy A. Hardcastle, on *July 20, 2007*, issues the unappealed and unchallenged Court Order as follows:

> *JUDGE HARDCASTLE: Plaintiff's Countermotion for Finding Defendant to be a Vexatious Litigant shall be denied without prejudice.*

JUDGE HARDCASTLE: Plaintiff's Countermotion for the Imposition of Sanctions and For Reimbursement of Attorney's Fees shall also be denied.

On October 18, 2007, VICTORIA FILED PETITIONER VICTORIA GIAMPA'S APPLICATION FOR PETITION FOR WRIT OF MANDAMUS OR IN THE ALTERNATIVE A PETITION FOR WRIT and alleges that at that time she set forth sufficient facts by a preponderance of evidence that demonstrate she has established a prima facie case for the issuance of such Writ. At that time VICTORIA sought, but has been unable, for one reason or another, to obtain from JUDGE POMRENZE a Court Order for correction and/or clarification due to such clerical error affecting issues to be argued and decided at the *August 28, 2007* hearing. VICTORIA has cause for concern as to which motions will be heard and to what extent at the hearing scheduled for *August 28, 2007,* and the Minute Order does not in any way identify or itemize the unheard and unresolved motions pending before JUDGE POMRENZE.

On January 25, 2008, the Nevada Supreme Court issued its ORDER DISMISSING APPEAL which states that "Once the district court enters a written order resolving the NRCP 60(b) motion, appellant, if aggrieved, may file an appeal from that order. Accordingly, as we lack jurisdiction over this appeal, we Order this appeal Dismissed."

On or about July 28, 2008, VICTORIA submits to JUDGE POMRENZE for permission to file DEFENDANT VICTORIA GIAMPA'S MOTION TO SEEK PERMISSION TO FILE DEFENDANT'S APPLICATION FOR AN INDEPENDENT ACTION TO SET ASIDE ALL ORDERS

WHICH MODIFIED THE INITIAL AND NON-MODIFIABLE 9/23/98 FINAL SETTLEMENT AGREEMENT PURSUANT TO NRCP 59 AND NRCP 60(b) [PURSUANT TO THE JANUARY 20, 2008 NEVADA SUPREME COURT DECISION] DUE TO PLAINTIFF'S HISTORY OF FACTS AND ATTENDANT CIRCUMSTANCES EVIDENCING FRAUD UPON THE COURT; and DEFENDANT'S APPLICATION FOR ORDER TO SHOW CAUSE AND FOR WILLFUL AND DELIBERATE CONTEMPT AND FOR IMPOSITION OF SANCTIONS; and DEFENDANT'S MOTION TO STAY ALL PROCEEDINGS PENDING A DETERMINATION OF A CONSTITUTIONAL CHALLENGE TO NEVADA REVISED STATUTES RE: BEST INTERESTS OF THE MINOR CHILDREN. VICTORIA spoke to JUDGE POMRENZE'S law clerk and she informed VICTORIA that JUDGE POMRENZE denies permission to file the motion and told VICTORIA to again submit the same motion *ex-parte.*

On or about August 18, 2008, VICTORIA attempts for a 2nd time and submits for JUDGE POMRENZE'S permission to now file an Ex-Parte MOTION TO SEEK PERMISSION TO FILE DEFENDANT'S APPLICATION FOR AN INDEPENDENT ACTION TO SET ASIDE ALL ORDERS WHICH MODIFIED THE INITIAL AND NON-MODIFIABLE 9/23/98 FINAL SETTLEMENT AGREEMENT PURSUANT TO NRCP 59 AND NRCP 60(b) [PURSUANT TO THE JANUARY 20, 2008 NEVADA SUPREME COURT DECISION] DUE TO PLAINTIFF'S HISTORY OF FACTS AND ATTENDANT CIRCUMSTANCES EVIDENCING FRAUD UPON THE COURT; and DEFENDANT'S APPLICATION FOR ORDER

TO SHOW CAUSE AND FOR WILLFUL AND DELIBERATE CONTEMPT AND FOR IMPOSITION OF SANCTIONS; and DEFENDANT'S MOTION TO STAY ALL PROCEEDINGS PENDING A DETERMINATION OF A CONSTITUTIONAL CHALLENGE TO NEVADA REVISED STATUTES RE: BEST INTERESTS OF THE MINOR CHILDREN. Once again, for a 2nd time, JUDGE POMRENZE denies permission for VICTORIA to file her motion.

On September 12, 2008, VICTORIA again files for a second time IN PROPER PERSON PETITION FOR WRIT OF MANDAMUS OR IN THE ALTERNATIVE PETITION FOR WRIT OF PROHIBITION and outlines a timeline of the motions heard before JUDGE POMRENZE wherein she steadfastly refuses to make any short-term orders concerning the minor children under the Best Interest of the Children standard and refuses to hear pending motions regarding support issues.

On October 2, 2008, the Nevada Supreme Court issued ORDER DENYING PETITION FOR WRIT OF MANDAMUS OR PROHIBITION which states that "A petition must also be supported by an affidavit of the party beneficially interested and must be served upon the respondent judge and all parties to the district court action.

VICTORIA contends that although she did not 'attach' any exhibits to her *September 12, 2008* ...PETITION FOR WRIT OF MANDAMUS.... she fully satisfies the requirements of NRCP 21 by "making a statement of the facts necessary to an understanding of the issues presented by the application, a statement of the issues presented and

of the relief sought, a statement of the reasons why the Writ should issue, and copies of any order or *opinion or parts of the record* which may be essential to an understanding of the matters set forth in the petition" when she *quoted and cited the pertinent opinions and* the *pertinent parts of the record* from JUDGE POMRENZE'S *March 7, 2008* FINDINGS OF FACT AND CONCLUSIONS OF LAW ORDER and *quoted and cited the pertinent opinions and the pertinent parts of the record* from the Nevada Supreme Court's *January 25, 2008* ORDER DISMISSING APPEAL in her Writ.

VICTORIA further contends that on *September 22, 2008*, she further satisfied the requirements of NRCP 21 by filing with the Nevada Supreme Court a CERTIFICATE OF MAILING OF PETITION FOR WRIT OF MANDAMUS and personally placed it in the mail addressed to JUDGE POMRENZE.

On October 21, 2008 VICTORIA submits to the Nevada Supreme Court for filing PERMISSION FOR LEAVE TO AMEND PETITION FOR WRIT OF MANDAMUS OR IN THE ALTERNATIVE A PETITION FOR WRIT OF PROHIBITION; OR PERMISSION FOR REHEARING OF PETITION FOR WRIT OF MANDAMUS OR IN THE ALTERNATIVE A PETITION FOR WRIT OF PROHIBITION and attached exhibits.

FACTUAL AND LEGAL ARGUMENT
(Points and Authorities)

VICTORIA diligently moves promptly and requests this Court for PERMISSION TO FILE AN EXTENTION OF TIME to file PETITIONER VICTORIA GIAMPA'S PERMISSION FOR LEAVE TO AMEND PETITION FOR WRIT OF MANDAMUS OR IN THE ALTERNATIVE A PETITION FOR WRIT OF PROHIBITION; OR PERMISSION FOR REHEARING OF PETITION FOR WRIT OF MANDAMUS OR IN THE ALTERNATIVE A PETITION FOR WRIT OF PROHIBITION permission to and relies on NRAP 26(B), which states in relevant part:

> (b) Enlargement of Time. The court for good cause shown may upon motion enlarge the time prescribed by these rules or by its order for doing any act, or may permit an act to be done after the expiration of such time; but the court may not enlarge the time for filing a notice of appeal.

VICTORIA needs this specific time frame requested because she is still having to vigilantly and vehemently defend against JUDGE POMRENZE'S recent actions where she refuses to allow VICTORIA from filing moving papers in Family Court that have proven to compound litigation solely to stretch VICTORIA'S financial resources and daily available time to properly attend to these Petitions.

VICTORIA has reason for concern because JUDGE POMRENZE deliberately fails to abide by the Nevada Supreme Court's *January 25, 2008* Order which declares VICTORIA a vexatious litigant and prevents her from filing

her motion to seek a final appealable order pursuant to NRCP 60(b) and to properly proceed as an aggrieved person.

JUDGE POMRENZE deliberately and purposefully refuses to issue Orders and prejudices VICTORIA'S right to allow her to file her motion and ultimately file an appeal as an aggrieved person, Barry v. Lindner, 119 Nev. 661, 669, 81 P.3d 537, 542-43 (2003). In allowing JUDGE POMRENZE'S *March 7, 2008* Order to stand, it prejudices VICTORIA'S rights, and that the only remedy that is fair and equitable relief is to permit a Writ. Nevada Courts have recognized that they have inherent power to seek and to do equity. *Ham v. District Court*, 93 Nev. 409, 416, 566 P.2cd 420, 424 (1977). JUDGE POMRENZE divests herself of authority to consider the merits of any of VICTORIA'S pending motions which ultimately precludes her from appealing an order and thus, a writ petition is the only available means to challenge the court's decision. *Floyd v. District Court*, 36 Nev. 349, 135 P. 922 (1913). JUDGE POMRENZE'S failure to allow VICTORIA to file her motion tends to frustrate VICTORIA'S ability to seek a final appealable order thereby violating VICTORIA'S right to due process of law.

VICTORIA seeks an extension of time to file her Petition because she contends that the court has previously held that "a petitioner is damaged or prejudiced if his claim will be moot on appeal." SG Cowen Sec. Corp. v. U.S. Dist. Court, 189 F.3d 909, 913 (9th Cir. 1999). VICTORIA filed a Motion to Stay and has demonstrated that she has no alternative means of relief and will suffer harm that is not correctable on appeal.

VICTORIA has been proceeding in pro se and as a pro se litigant, and she is entitled to a "less stringent" interpretation of her pleadings than those applied to "formal pleadings drafted by lawyers." Haines v. Kerner, 404 U.S. 519, 520 (1972); Molina v. City of Lancaster, 159 F. Supp. 2d 813, 818 (E.D. Pa. 2001).

Finally, it is well recognized in Nevada Law that there is no appeal from an oral order or even a clerk's minute order or an un-filed written order. See Rust v. Clark County School Dist. 103 Nev. 686, 747 P.2d1380 (1987). It is clear that JUDGE POMRENZE'S oral order denying VICTORIA permission to file her motion is not appealable. Thus the only remedy that Victoria has is Mandamus or Prohibition as any appeal of this issue after any final order or judgment would come too late. JUDGE POMRENZE knowingly and deliberately places VICTORIA in a predicament reminiscent of author Joseph Heller's "Catch 22" and deliberately prevents VICTORIA from seeking a final appeal order as outlined in the Nevada Supreme Court's January 25, 2008 Order.

CONCLUSION

Based on the foregoing Factual and Legal Argument and good cause showing, VICTORIA believes that she has met the standard of burden of proof and persuasion so that this Court should grant her permission for an Extension of Time to File her Petition.

AFFIDAVIT

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

I, **VICTORIA GIAMPA**, after being first duly sworn, upon her oath deposes and says that:

1. I am the PETITIONER in the above-captioned PERMISSION TO FILE AN EXTENSION OF TIME for the purpose of filing PERMISSION FOR LEAVE TO AMEND PETITION FOR WRIT OF MANDAMUS OR IN THE ALTERNATIVE A PETITION FOR WRIT OF PROHIBITION; OR PERMISSION FOR REHEARING OF PETITION FOR WRIT OF MANDAMUS OR IN THE ALTERNATIVE A PETITION FOR WRIT OF PROHIBITION;

2. That all statements made are based upon my personal knowledge, unless stated upon information and belief, and as to these I am informed and believe them to be true;

3. VICTORIA believes that she needs this specific time frame because she is still having to defend litigation in Family Court that has proven to stretch the financial resources and available time to VICTORIA to attend to these Petitions;

4. VICTORIA believes that she has reason for concern because Judge Pomrenze's August 24, 2007 order declaring VICTORIA a vexatious litigator improperly relies upon the filings before another judge and her Findings of Facts do not meet the test that the 9th Circuit Court's recognizes to declare VICTORIA a vexatious litigator;

5. VICTORIA believes that JUDGE POMRENZE deliberately and purposefully refuses to issue Orders and prejudices VICTORIA'S right to allow her to file her motion and ultimately file an appeal as an aggrieved person;

7. VICTORIA believes that she has been in the past and will continue to be in the future in full compliance with the Nevada Rules of Appellate Procedure and will continue to do so should this Court grant her instant request for an extension of time to file her Petition pursuant to Nevada Supreme Court Rules;

8. VICTORIA also believes that her request for an extension of time to file a Petition is made in good faith and for good cause.

FURTHER AFFIANT SAYETH NAUGHT.

_____
VICTORIA GIAMPA

DATED THIS 22nd day of OCTOBER, 2008.

SUBSCRIBED AND SWORN
to before me this 22nd day of
OCTOBER, 2008.

Amber Lynn Bell
Notary Public

CERTIFICATE OF SERVICE

I hereby certify that on the _____ **day of OCTOBER, 2008,** I placed a true and correct copy of the above document in the U.S. mail, postage prepaid, to the following:

BRYCE C. DUCKWORTH, ESQ.
Smith, Larsen & Wixom
1935 Village Center Circle
Las Vegas, Nevada 89134
Attorney for Charles Giampa

Judge Sandra L. Pomrenze
Eighth Judicial District Court
601 North Pecos Road
Las Vegas, Nevada 89101-2408